

ORIGINAL

FILED

FEB 06 2014

CLERK  
United States Bankruptcy Court  
San Jose, California

James M. Kelley  
14390 Douglass Lane  
Saratoga, CA 95070  
[jmadisonkelley@gmail.com](mailto:jmadisonkelley@gmail.com)  
Tel: (408) 402-1915

PRO SE

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA – DIVISION 5

In Re: JAMES MADISON KELLEY,  Debtor	Chapter 11  Adversary Case No. 10-05245
JAMES MADISON KELLEY  Plaintiff  v.  JPMORGAN CHASE BANK, NA,  DOES (1-20)	) Request for Judicial Notice of ) "United States of America, et al ) Plaintiffs v. Bank of America Corp. ) et al., Defendants, Consent Judgment" ) ) and ) ) Declaration of James Madison Kelley ) in Support of the Above Request for ) Judicial Notice ) ) ) (Proof of Service Included) ) ) ) Honorable Arthur S. Weissbrodt ) ) Courtroom: 3020 ) Date: TBD ) Time: TBD

1 **REQUEST FOR JUDICIAL NOTICE**

2 Pursuant to Federal Rule of Evidence 201, Plaintiff- James Madison Kelley hereby  
3 requests that the Court take judicial notice of the

4 "United States of America, et al Plaintiffs v. Bank of America Corp. et al.,  
5 Defendants, Consent Judgment"

6 that is in the United States District Court for the District of Columbia, Case 1:12-cv-  
7 00361-RMC Document 10, Filed 04/04/12. This document is attached hereto. The  
8 document will be referred to herein as the "Consent Judgment" for brevity.

9 JPMorganChase Bank, NA will be referred to as "Chase".

10 The Consent Order was downloaded from the government website:

11 <http://www.justice.gov/opa/documents/chase-consent-judgement.pdf>

12 This Court may take judicial notice that Plaintiff Chase is presently bound by a  
13 Consent Order. #AA-EC-11-15, with the United States of America Department of the  
14 Treasury, Comptroller of the Currency related to its initiation and handling of foreclosure  
15 proceedings. The Consent Order is based in part on foreclosure affidavits that have been  
16 found to be false. JPMorgan presently manages approximately 6.3 million residential  
17 mortgage loans in which it has litigated numerous wrongful foreclosure proceedings and  
18 initiated non-judicial foreclosure proceedings without proper standing. The matter was  
19 prosecuted by the Department of Justice. Chase's standing is the central issue in this  
20 adversary case.

21 Under Federal Rule of Evidence 201(d), judicial notice may be taken at any stage  
22 of the proceeding, including by an appellate court during the pendency of an appeal. Fed.  
23 R. Evid. 201(d); *see also* *Lowry v. Barnhart*, 329 F.3d 1019, 1024(9th Cir. 2003); *Bryant*  
24 *v. Carleson*, 444 F.2d 353, 357-58 (9th Cir. 1971); Circuit Advisory Committee Note  
25 Seven to Ninth Circuit Rule 27-1. "The Court may take judicial notice of any matter not  
26 subject to reasonable dispute because it: (1) is generally known within the trial court's  
27

1 territorial jurisdiction; or (2) can be accurately and readily determined from sources  
2 whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b).

3 The "Consent Judgment" is a proper subject for judicial notice and attached  
4 hereto is a true and correct copy the accuracy of which can be accurately and readily  
5 determined and which cannot reasonably be questioned." Fed. R. Evid. 201(b).

6 "Federal courts may 'take notice of proceedings in other courts, both within and  
7 without the federal judicial system, if those proceedings have a direct relation to the  
8 matters at issue.'" *CactusCorner, LLC v. U.S. Dept. of Agric.*, 346 F.Supp.2d 1075, 1092  
9 (E.D. Cal.2004) (quoting *United States ex rel Robinson Rancheria Citizens Council v.*  
10 *Borneo, Inc.*, 971 F.2d 244, 248 (9<sup>th</sup> Cir.1992)).

#### 11 **Facts to Be Judicially Noticed**

12 The "Consent judgment" sets forth facts that are relevant to the TILA, Contract  
13 Invalidity claims and Chase's standing in the instant case, to wit:

14 (1) "Defendant shall comply with the servicing standards, attached hereto as  
15 Exhibit A, in accordance with their terms and section A of Exhibit E, attached  
16 hereto." (Document 10,Section II, page 3)

17 (2) The Settlement Term Sheet makes explicit that the terms shall apply to  
18 bankruptcy and foreclosures information and documentation in all  
19 jurisdictions whether judicial, non-judicial or quasi judicial. (see Exhibit A,  
20 Doc 10-1,section 1);

21 a. The Servicer shall ensure that the factual assertions made in pleadings  
22 ...bankruptcy proofs of claim....Declarations, Affidavits, and sworn  
23 statements filed by or on behalf of Servicer in ....bankruptcy  
24 proceedings and notices of default...are accurate and complete and are  
25 supported by competent and reliable evidence." (see Exhibit A, I A 1,  
26 Doc 10-1, page 93;

1 b. "Servicer shall not file a POC in a bankruptcy proceeding which when  
2 filed , contained materially inaccurate information."

3 c. "Servicer shall notify borrowers that they may receive, upon written  
4 request: ....the name of the investor that holds the borrower's loan."  
5 (see Exhibit A, I B 6, Doc 10-1, page 98);

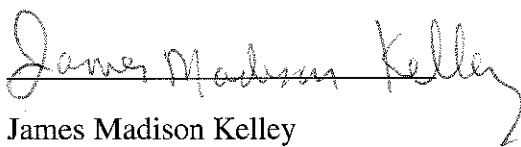
6 d. "Servicer shall not intentionally destroy or dispose of original notes  
7 that are still in force." (see Exhibit A, I B 6, Doc 10-1, page 100);

8 A federal court must take judicial notice of facts "if requested by a party and  
9 supplied with the necessary information." Fed. R. Evid. 201(d). Here the necessary  
10 information is attached.

11 I respectfully request that the Court take Judicial Notice of the document and  
12 statements of fact contained therein.

13  
14 DATED: February 6, 2014

15  
16 Respectfully Submitted by

17  
18 

19 James Madison Kelley

20 Pro Se Plaintiff  
21  
22  
23  
24  
25  
26  
27

1 **DECLARATION OF JAMES MADISON KELLEY**

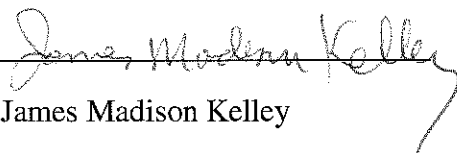
2 I, James Madison Kelley, state

3 1. I am the Pro Se Plaintiff in the above captioned action. I make this Declaration in  
4 support of the Request for Judicial Notice filed herewith. The facts set forth below  
5 are within my personal knowledge unless otherwise indicated.  
6

7 2. I personally downloaded the "Consent Order" from the government website:  
8 <http://www.justice.gov/opa/documents/chase-consent-judgement.pdf>  
9

10  
11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed on February 6, 2014 at Saratoga, California.

13  
14   
15 James Madison Kelley

16 Pro Se Plaintiff  
17 14390 Douglass Lane  
18 Saratoga, CA 95070  
19 (408) 402-1915  
20 [jmadisonkelley@gmail.com](mailto:jmadisonkelley@gmail.com)  
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**PROOF OF SERVICE**

I, James Madison Kelley, under penalty of perjury attest that I mailed the following documents to the parties named below:

and

“Declaration of James Madison Kelley in Support of the Above Request  
for Judicial Notice “

By US Priority mail to the following people:

S. Christopher Yoo, esq.  
John M. Sorich, esq.  
Thomas Van, esq.

AlvaradoSmith, PC  
1 MacArthur Place, #200  
Santa Ana, CA 92707

Dated at Saratoga, California, February 6, 2014

By: 

James Madison Kelley

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

APR - 4 2012

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

UNITED STATES OF AMERICA,  
*et al.*,

Plaintiffs,

v.

BANK OF AMERICA CORP. *et al.*,

Defendants.

Civil Action No. 12 0361

**CONSENT JUDGMENT**

WHEREAS, Plaintiffs, the United States of America and the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the Commonwealths of Kentucky, Massachusetts, Pennsylvania and Virginia, and the District of Columbia filed their complaint on March 12, 2012, alleging that J.P. Morgan Chase & Company and J.P. Morgan Chase Bank, N.A. (collectively, "Defendant") violated, among other laws, the Unfair and Deceptive Acts and Practices laws of the Plaintiff States, the False Claims Act, the

Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Servicemembers Civil Relief Act, and the Bankruptcy Code and Federal Rules of Bankruptcy Procedure;

WHEREAS, the parties have agreed to resolve their claims without the need for litigation;

WHEREAS, Defendant, by its attorneys, has consented to entry of this Consent Judgment without trial or adjudication of any issue of fact or law and to waive any appeal if the Consent Judgment is entered as submitted by the parties;

WHEREAS, Defendant, by entering into this Consent Judgment, does not admit the allegations of the Complaint other than those facts deemed necessary to the jurisdiction of this Court;

WHEREAS, the intention of the United States and the States in effecting this settlement is to remediate harms allegedly resulting from the alleged unlawful conduct of the Defendant;

AND WHEREAS, Defendant has agreed to waive service of the complaint and summons and hereby acknowledges the same;

NOW THEREFORE, without trial or adjudication of issue of fact or law, without this Consent Judgment constituting evidence against Defendant, and upon consent of Defendant, the Court finds that there is good and sufficient cause to enter this Consent Judgment, and that it is therefore ORDERED, ADJUDGED, AND DECREED:

#### **I. JURISDICTION**

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, 1355(a), and 1367, and under 31 U.S.C. § 3732(a) and (b), and over Defendant. The Complaint states a claim upon which relief may be granted against Defendant. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b)(2) and 31 U.S.C. § 3732(a).



## II. SERVICING STANDARDS

2. Defendant shall comply with the Servicing Standards, attached hereto as Exhibit A, in accordance with their terms and Section A of Exhibit E, attached hereto.

## III. FINANCIAL TERMS

3. *Payment Settlement Amounts.* Defendant shall pay into an interest bearing escrow account to be established for this purpose the sum of \$1,121,188,661, which sum shall be added to funds being paid by other institutions resolving claims in this litigation (which sum shall be known as the "Direct Payment Settlement Amount") and which sum shall be distributed in the manner and for the purposes specified in Exhibit B. Defendant's payment shall be made by electronic funds transfer no later than seven days after the Effective Date of this Consent Judgment, pursuant to written instructions to be provided by the United States Department of Justice. After Defendant has made the required payment, Defendant shall no longer have any property right, title, interest or other legal claim in any funds held in escrow. The interest bearing escrow account established by this Paragraph 3 is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation Section 1.468B-1 of the U.S. Internal Revenue Code of 1986, as amended. The Monitoring Committee established in Paragraph 8 shall, in its sole discretion, appoint an escrow agent ("Escrow Agent") who shall hold and distribute funds as provided herein. All costs and expenses of the Escrow Agent, including taxes, if any, shall be paid from the funds under its control, including any interest earned on the funds.

4. *Payments to Foreclosed Borrowers.* In accordance with written instructions from the State members of the Monitoring Committee, for the purposes set forth in Exhibit C, the Escrow Agent shall transfer from the escrow account to the Administrator appointed under

Exhibit C \$1,489,813,925.00 (the "Borrower Payment Amount") to enable the Administrator to provide cash payments to borrowers whose homes were finally sold or taken in foreclosure between and including January 1, 2008 and December 31, 2011; who submit claims for harm allegedly arising from the Covered Conduct (as that term is defined in Exhibit G hereto); and who otherwise meet criteria set forth by the State members of the Monitoring Committee. The Borrower Payment Amount and any other funds provided to the Administrator for these purposes shall be administered in accordance with the terms set forth in Exhibit C.

5. *Consumer Relief.* Defendant shall provide \$3,675,400,000 of relief to consumers who meet the eligibility criteria in the forms and amounts described in Paragraphs 1-8 of Exhibit D, and \$537,000,000 of refinancing relief to consumers who meet the eligibility criteria in the forms and amounts described in Paragraph 9 of Exhibit D, to remediate harms allegedly caused by the alleged unlawful conduct of Defendant. Defendant shall receive credit towards such obligation as described in Exhibit D.

#### IV. ENFORCEMENT

6. The Servicing Standards and Consumer Relief Requirements, attached as Exhibits A and D, are incorporated herein as the judgment of this Court and shall be enforced in accordance with the authorities provided in the Enforcement Terms, attached hereto as Exhibit E.

7. The Parties agree that Joseph A. Smith, Jr. shall be the Monitor and shall have the authorities and perform the duties described in the Enforcement Terms, attached hereto as Exhibit E.

8. Within fifteen (15) days of the Effective Date of this Consent Judgment, the participating state and federal agencies shall designate an Administration and Monitoring Committee (the "Monitoring Committee") as described in the Enforcement Terms. The

Monitoring Committee shall serve as the representative of the participating state and federal agencies in the administration of all aspects of this and all similar Consent Judgments and the monitoring of compliance with it by the Defendant.

#### **V. RELEASES**

9. The United States and Defendant have agreed, in consideration for the terms provided herein, for the release of certain claims, and remedies, as provided in the Federal Release, attached hereto as Exhibit F. The United States and Defendant have also agreed that certain claims, and remedies are not released, as provided in Paragraph 11 of Exhibit F. The releases contained in Exhibit F shall become effective upon payment of the Direct Payment Settlement Amount by Defendant.

10. The State Parties and Defendant have agreed, in consideration for the terms provided herein, for the release of certain claims, and remedies, as provided in the State Release, attached hereto as Exhibit G. The State Parties and Defendant have also agreed that certain claims, and remedies are not released, as provided in Part IV of Exhibit G. The releases contained in Exhibit G shall become effective upon payment of the Direct Payment Settlement Amount by Defendant.

#### **VI. SERVICEMEMBERS CIVIL RELIEF ACT**

11. The United States and Defendant have agreed to resolve certain claims arising under the Servicemembers Civil Relief Act ("SCRA") in accordance with the terms provided in Exhibit H. Any obligations undertaken pursuant to the terms provided in Exhibit H, including any obligation to provide monetary compensation to servicemembers, are in addition to the obligations undertaken pursuant to the other terms of this Consent Judgment. Only a payment to

an individual for a wrongful foreclosure pursuant to the terms of Exhibit H shall be reduced by the amount of any payment from the Borrower Payment Amount.

## **VII. OTHER TERMS**

12. The United States and any State Party may withdraw from the Consent Judgment and declare it null and void with respect to that party if the Defendant does not make the Consumer Relief Payments (as that term is defined in Exhibit F (Federal Release)) required under this Consent Judgment and fails to cure such non-payment within thirty days of written notice by the party.

13. This Court retains jurisdiction for the duration of this Consent Judgment to enforce its terms. The parties may jointly seek to modify the terms of this Consent Judgment, subject to the approval of this Court. This Consent Judgment may be modified only by order of this Court.

14. The Effective Date of this Consent Judgment shall be the date on which the Consent Judgment has been entered by the Court and has become final and non-appealable. An order entering the Consent Judgment shall be deemed final and non-appealable for this purpose if there is no party with a right to appeal the order on the day it is entered.

15. This Consent Judgment shall remain in full force and effect for three and one-half years from the date it is entered ("the Term"), at which time the Defendants' obligations under the Consent Judgment shall expire, except that, pursuant to Exhibit E, Defendants shall submit a final Quarterly Report for the last quarter or portion thereof falling within the Term and cooperate with the Monitor's review of said report, which shall be concluded no later than six months after the end of the Term. Defendant shall have no further obligations under this Consent Judgment six months after the expiration of the Term, but the Court shall retain

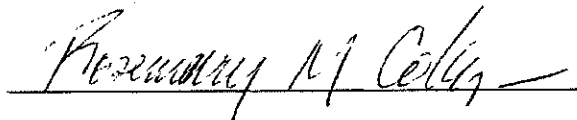
jurisdiction for purposes of enforcing or remedying any outstanding violations that are identified in the final Monitor Report and that have occurred but not been cured during the Term.

16. Except as otherwise agreed in Exhibit B, each party to this litigation will bear its own costs and attorneys' fees associated with this litigation.

17. Nothing in this Consent Judgment shall relieve Defendant of its obligation to comply with applicable state and federal law.

18. The sum and substance of the parties' agreement and of this Consent Judgment are reflected herein and in the Exhibits attached hereto. In the event of a conflict between the terms of the Exhibits and paragraphs 1-18 of this summary document, the terms of the Exhibits shall govern.

SO ORDERED this 4 day of April, 2012



UNITED STATES DISTRICT JUDGE

For the United States:



TONY WEST

Acting Associate Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, DC 20530  
Tel.: 202-514-9500  
Fax: 202-514-0238

For the Department of the Treasury:

GEORGE W. MADISON

General Counsel  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220  
Tel.: 202-622-0283  
Fax: 202-622-2882

For the Federal Trade Commission  
(as to Exhibit F only):

Amanda Basta

Attorney  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
Washington, DC 20058  
Tel: 202-326-2340  
Fax: 202-326-2558

For the Department of Housing and Urban  
Development;

HELEN R. KANOVSKY

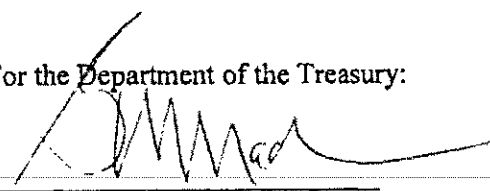
General Counsel  
U.S. Department of Housing and Urban  
Development  
451 7<sup>th</sup> Street, S.W.  
Washington, DC 20410  
Tel.: 202-402-5023  
Fax: 202-708-3389

For the Consumer Financial Protection Bureau  
(as to Exhibit F only):

Lucy Morris

Deputy Enforcement Director  
Consumer Financial Protection Bureau  
1500 Pennsylvania Avenue, NW  
(Attn: 1801 L Street)  
Washington, DC 20220  
Tel: 202-435-7154

For the Department of the Treasury:

  
\_\_\_\_\_  
GEORGE W. MADISON  
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For the Department of Housing and Urban  
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For the Federal Trade Commission  
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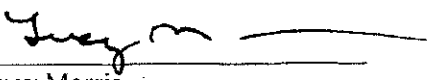
Amanda Basta  
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For the Department of Housing and Urban  
Development:

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HELEN R. KANOVSKY  
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U.S. Department of Housing and Urban  
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451 7<sup>th</sup> Street, S.W.  
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For the Consumer Financial Protection Bureau  
(as to Exhibit F only):



---

Lucy Morris  
Deputy Enforcement Director  
Consumer Financial Protection Bureau  
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(Attn: 1801 L Street)  
Washington, DC 20220  
Tel: 202-435-7154

For the State of Alabama:



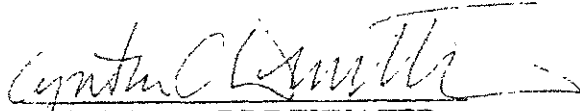
LUTHER STRANGE  
Attorney General  
State of Alabama  
501 Washington Avenue  
Montgomery, AL 36130  
Tel.: 334-242-7335  
Fax: 334-242-2433

For the Alabama State Banking  
Department:



JOHN D. HARRISON  
Superintendent of Banks  
Alabama State Banking Department  
401 Adams Avenue, Suite 680  
P.O. Box 4600  
Montgomery, AL 36103-4600  
Tel.: 334-242-3452  
Fax: 334-242-3500

For the State of Alaska:



CYNTHIA C. DRINKWATER  
Assistant Attorney General  
Alaska Attorney General's Office  
1031 W. 4<sup>th</sup> Avenue, Ste. 200  
Anchorage, AK 99501  
Tel.: 907-269-5200  
Fax: 907-264-8554

For the Alaska Division of Banking and Securities:

---

Lorie L. Hovanec  
Director  
Alaska Division of Banking and Securities  
Department of Commerce, Community and  
Economic Development  
550 W. 7<sup>th</sup> Ave., Ste 1940  
Anchorage, AK 99501  
Tel.: 907-269-8140  
Fax: 907-465-1231

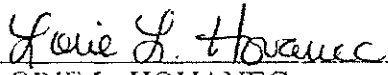
For the State of Alaska:

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CYNTHIA C. DRINKWATER  
Assistant Attorney General  
Alaska Attorney General's Office  
1031 W. 4<sup>th</sup> Avenue, Ste. 200  
Anchorage, AK 99501  
Tel.: 907-269-5200  
Fax: 907-264-8554

For the Alaska Division of Banking  
and Securities:

---

  
LORIE L. HOVANEK  
Director  
Alaska Division of Banking and  
Securities  
Department of Commerce,  
Community and Economic  
Development  
550 W. 7<sup>th</sup> Ave., Ste. 1940  
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Tel.: 907-269-8140  
Fax: 907-465-1231

For the State of Arizona:



THOMAS C. HORNE  
Arizona Attorney General  
by Carolyn R. Matthews  
Assistant Attorney General  
1275 W. Washington  
Phoenix, AZ 85007  
Tel.: 602-542-7731  
Fax: 602-542-4377

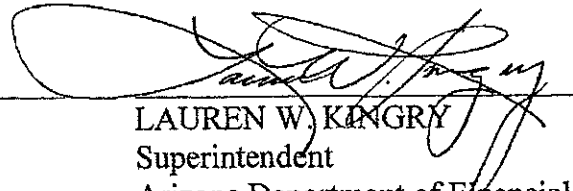
For the Arizona Department of  
Financial Institutions:

LAUREN W. KINGRY  
Superintendent  
Arizona Department of Financial  
Institutions  
2910 N. 44th Street, suite #310  
Phoenix, AZ 85018  
Tel.: 602-771-2772  
Fax: 602-381-1225

For the State of Arizona:

For the Arizona Department of  
Financial Institutions:

THOMAS C. HORNE  
Arizona Attorney General  
by Carolyn R. Matthews  
Assistant Attorney General  
1275 W. Washington  
Phoenix, AZ 85007  
Tel.: 602-542-7731  
Fax: 602-542-4377



LAUREN W. KINGRY  
Superintendent  
Arizona Department of Financial  
Institutions  
2910 N. 44th Street, suite #310  
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Tel.: 602-771-2772  
Fax: 602-381-1225

For the State of Arkansas

By: 

James B. DePriest, Ark. Bar No. 80038

Deputy Attorney General

Office of the Attorney General

323 Center Street, Suite 200

Little Rock, Arkansas 72201

---

A. Heath Abshire

Securities Commissioner

201 East Markham, Suite 300

Little Rock, AR 72201

Tel: 501-324-9260

Fax: 501-324-9268



For the State of Arkansas:

---

JAMES B. DEPRIEST  
Ark. Bar No. 80038  
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Little Rock, Arkansas 72201  
Tel.: 501-682-5028  
Fax: 501-682-8118

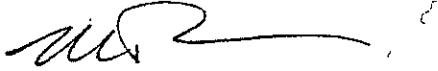
For the Arkansas Securities  
Department:



---

A. HEATH ABSHURE  
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---

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Fax: 415-703-1016

For the California Department of  
Corporations:

---


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Commissioner  
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For the California Department of  
Corporations:

  
JAN LYNN OWEN 3-9-2012  
Commissioner  
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Tel.: 916-445-7205  
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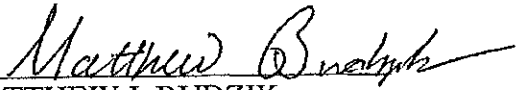
For the State of Colorado, *ex. rel.* John W. Suthers,  
Attorney General, and On behalf of the Administrator  
of the Colorado Uniform Consumer Credit Code, Laura E. Udis:



---

ANDREW P. MCCALLIN  
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For the State of Connecticut and the  
Connecticut Department of Banking:

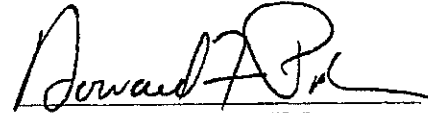
  
MATTHEW J. BUDZIK  
JOSEPH J. CHAMBERS  
Assistant Attorneys General  
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55 Elm Street, P.O. Box 120  
Hartford, CT 06141-0120  
Tel: 860-808-5270  
Fax: 860-808-5385

For the State of Connecticut and the  
Connecticut Department of Banking:

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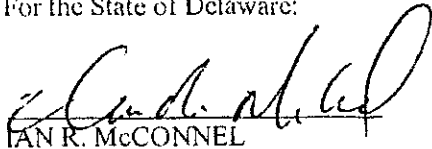
MATTHEW J. BUDZIK  
JOSEPH J. CHAMBERS  
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55 Elm Street, P.O. Box 120  
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For the Connecticut  
Department of Banking:



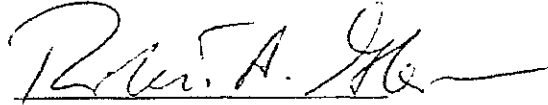
HOWARD F. PITKIN  
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Connecticut Department of Banking  
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For the Florida Office of Financial Regulations:



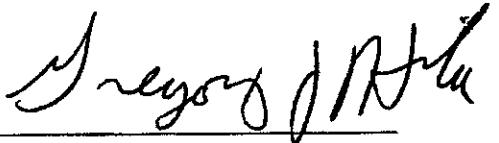
Tom Grady  
Commissioner  
Florida Office of Financial Regulations  
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Fax: 850-410-9914

For the State of Florida:

For the Florida Office of  
Financial Regulation:

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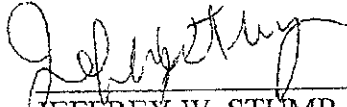
PAMELA JO BONDI  
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State of Hawaii Commissioner of Financial Institutions:

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---


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For the Idaho Department of  
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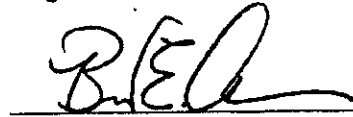


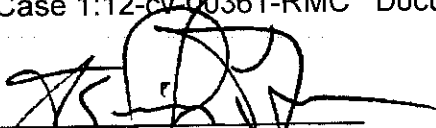
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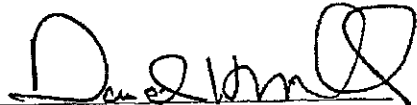
---

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For the Iowa Division of Banking:

---

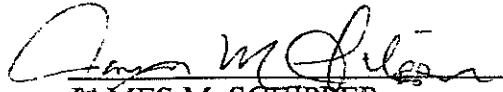
JAMES M. SCHIPPER  
Superintendent of Banking  
Iowa Division of Banking  
200 E. Grand Ave., Ste. 300  
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For the Iowa Division of Banking:



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For the Kansas Office of the State  
Bank Commissioner:



---


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Commissioner  
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Tel.: 785-296-2266  
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For the State of Kansas:



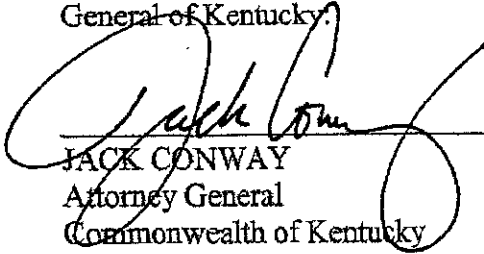
MEGHAN E. STOPPEL  
Assistant Attorney General  
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General  
120 SW 10<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
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For the Kansas Office of the State  
Bank Commissioner:



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Commissioner  
Kansas Office of the State Bank  
Commissioner  
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Fax: 785-296-0168

For the Office of the Attorney  
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Frankfort, Kentucky 40601-3449  
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Fax: 502-564-2894

For the Kentucky Department of  
Financial Institutions:

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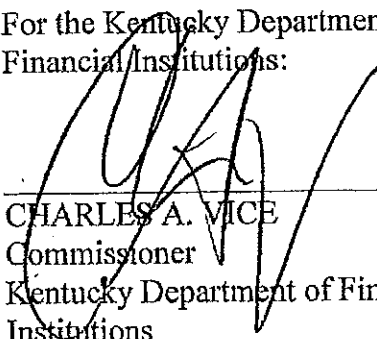
CHARLES A. VICE  
Commissioner  
Kentucky Department of Financial  
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For the Office of the Attorney  
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Fax: 502-564-2894

For the Kentucky Department of  
Financial Institutions:

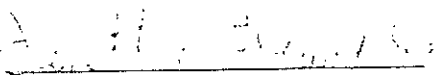


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For the State of Louisiana:

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CALDWELL  
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SANETTRIA GLASPER  
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For the Louisiana Office of  
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For the State of Maine and the  
Maine Bureaus of Consumer Credit  
Protection and Financial Institutions:

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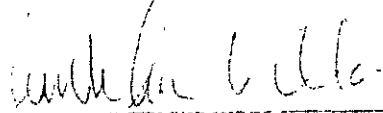
For the Office of the Commissioner  
of Financial Regulation:

  
MARK KAUFMAN

Commissioner of Financial  
Regulation  
Maryland Department of Labor,  
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For The Commonwealth Of  
Massachusetts:

MARTHA COAKLEY  
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---

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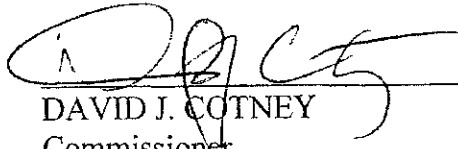
For The Commonwealth Of  
Massachusetts:

MARTHA COAKLEY  
Attorney General

For the Massachusetts Division of  
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AMBER ANDERSON VILLA  
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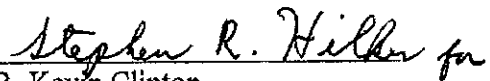
For the State of Michigan:



---

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State of Michigan Office of Financial and Insurance Regulation  
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Attorney General, State of  
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Lori Swanson  
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For the Minnesota Department of  
Commerce:



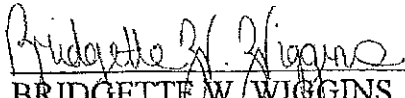
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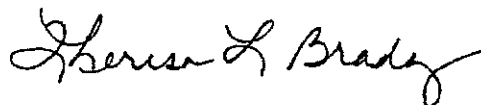


For the State of Mississippi:

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For the Mississippi Department of  
Banking & Consumer Finance:

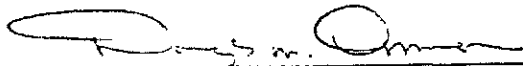


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For the State of Missouri:

CHRIS KOSTER  
Attorney General



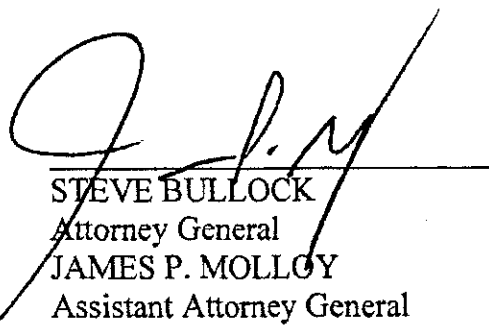
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Banking and Finance:

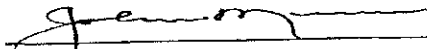
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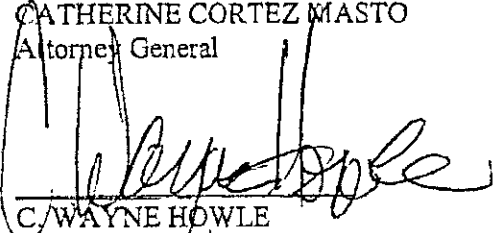


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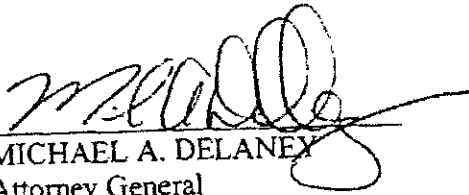


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For the NEW HAMPSHIRE BANKING  
COMMISSIONER

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For the New Hampshire Banking  
Commissioner

A handwritten signature in black ink, appearing to read 'RW', is written over a horizontal line.

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For the New Mexico Financial  
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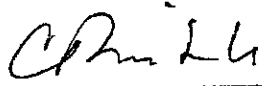
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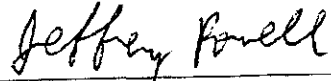
For the New Mexico Financial  
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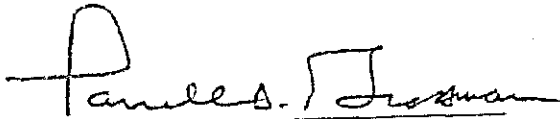
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 /WA with authorization

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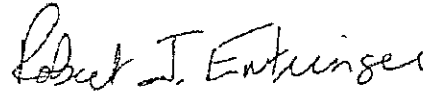
For the State of North Dakota

WAYNE STENEHJEM  
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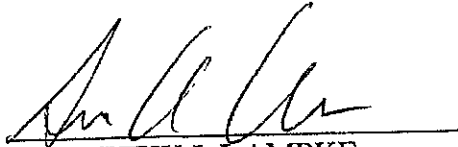
For the North Dakota Department  
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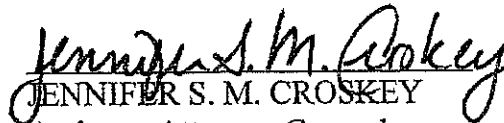
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For Department of Consumer and  
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For the Commonwealth of Pennsylvania  
Department of Banking:

---

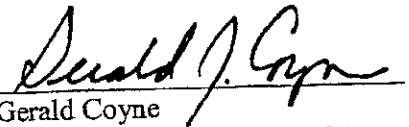
LINDA L. KELLY  
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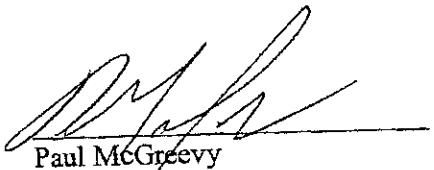
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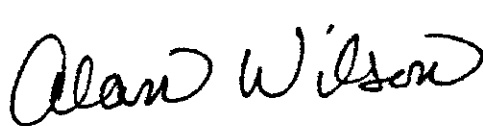
  
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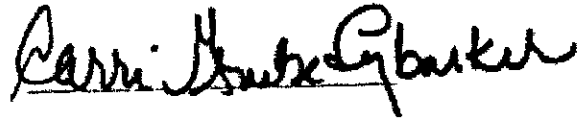
For the State of South Carolina:

For the South Carolina Department of  
Consumer Affairs and South Carolina Board  
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---

ALAN WILSON  
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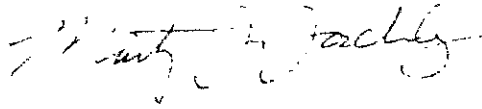
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Institutions:

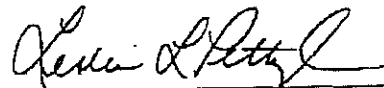


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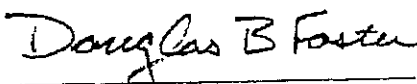
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For the State of Utah:



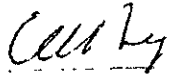
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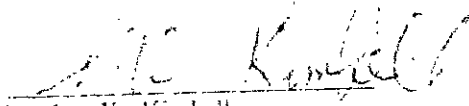
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For the Virginia Bureau of  
Financial Institutions:

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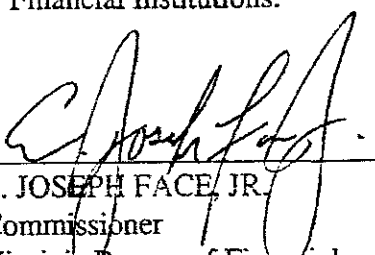
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*ex rel.* KENNETH T. CUCCINELLI, II,  
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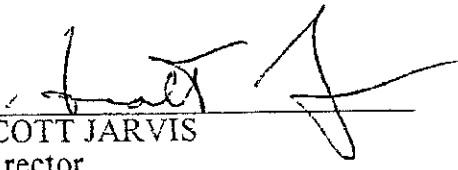
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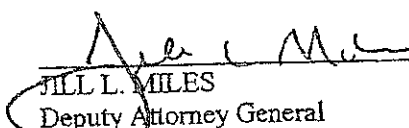
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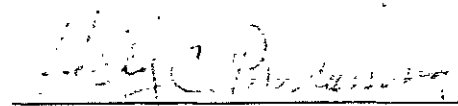
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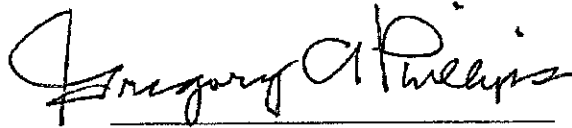
For the Wisconsin Department of  
Financial Institutions:



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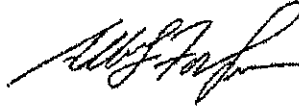
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# EXHIBIT A

## Settlement Term Sheet

The provisions outlined below are intended to apply to loans secured by owner-occupied properties that serve as the primary residence of the borrower unless otherwise noted herein.

### **I. FORECLOSURE AND BANKRUPTCY INFORMATION AND DOCUMENTATION.**

Unless otherwise specified, these provisions shall apply to bankruptcy and foreclosures in all jurisdictions regardless of whether the jurisdiction has a judicial, non-judicial or quasi-judicial process for foreclosures and regardless of whether a statement is submitted during the foreclosure or bankruptcy process in the form of an affidavit, sworn statement or declarations under penalty of perjury (to the extent stated to be based on personal knowledge) ("Declaration").

#### **A. Standards for Documents Used in Foreclosure and Bankruptcy Proceedings.**

1. Servicer shall ensure that factual assertions made in pleadings (complaint, counterclaim, cross-claim, answer or similar pleadings), bankruptcy proofs of claim (including any facts provided by Servicer or based on information provided by the Servicer that are included in any attachment and submitted to establish the truth of such facts) ("POC"), Declarations, affidavits, and sworn statements filed by or on behalf of Servicer in judicial foreclosures or bankruptcy proceedings and notices of default, notices of sale and similar notices submitted by or on behalf of Servicer in non-judicial foreclosures are accurate and complete and are supported by competent and reliable evidence. Before a loan is referred to non-judicial foreclosure, Servicer shall ensure that it has reviewed competent and reliable evidence to substantiate the borrower's default and the right to foreclose, including the borrower's loan status and loan information.
2. Servicer shall ensure that affidavits, sworn statements, and Declarations are based on personal knowledge, which may be based on the affiant's review of Servicer's books and records, in accordance with the evidentiary requirements of applicable state or federal law.
3. Servicer shall ensure that affidavits, sworn statements and Declarations executed by Servicer's affiants are based on the affiant's review and personal knowledge of the accuracy and completeness of the assertions in the affidavit, sworn statement or Declaration, set out facts that Servicer reasonably believes would be admissible in evidence, and show that the affiant is competent to testify on the matters stated. Affiants shall confirm that they have reviewed competent and reliable evidence to substantiate the

borrower's default and the right to foreclose, including the borrower's loan status and required loan ownership information. If an affiant relies on a review of business records for the basis of its affidavit, the referenced business record shall be attached if required by applicable state or federal law or court rule. This provision does not apply to affidavits, sworn statements and Declarations signed by counsel based solely on counsel's personal knowledge (such as affidavits of counsel relating to service of process, extensions of time, or fee petitions) that are not based on a review of Servicer's books and records. Separate affidavits, sworn statements or Declarations shall be used when one affiant does not have requisite personal knowledge of all required information.

4. Servicer shall have standards for qualifications, training and supervision of employees. Servicer shall train and supervise employees who regularly prepare or execute affidavits, sworn statements or Declarations. Each such employee shall sign a certification that he or she has received the training. Servicer shall oversee the training completion to ensure each required employee properly and timely completes such training. Servicer shall maintain written records confirming that each such employee has completed the training and the subjects covered by the training.
5. Servicer shall review and approve standardized forms of affidavits, standardized forms of sworn statements, and standardized forms of Declarations prepared by or signed by an employee or officer of Servicer, or executed by a third party using a power of attorney on behalf of Servicer, to ensure compliance with applicable law, rules, court procedure, and the terms of this Agreement ("the Agreement").
6. Affidavits, sworn statements and Declarations shall accurately identify the name of the affiant, the entity of which the affiant is an employee, and the affiant's title.
7. Affidavits, sworn statements and Declarations, including their notarization, shall fully comply with all applicable state law requirements.
8. Affidavits, sworn statements and Declarations shall not contain information that is false or unsubstantiated. This requirement shall not preclude Declarations based on information and belief where so stated.
9. Servicer shall assess and ensure that it has an adequate number of employees and that employees have reasonable time to prepare, verify, and execute pleadings, POCs, motions for relief from stay ("MRS"), affidavits, sworn statements and Declarations.

10. Servicer shall not pay volume-based or other incentives to employees or third-party providers or trustees that encourage undue haste or lack of due diligence over quality.
11. Affiants shall be individuals, not entities, and affidavits, sworn statements and Declarations shall be signed by hand signature of the affiant (except for permitted electronic filings). For such documents, except for permitted electronic filings, signature stamps and any other means of electronic or mechanical signature are prohibited.
12. At the time of execution, all information required by a form affidavit, sworn statement or Declaration shall be complete.
13. Affiants shall date their signatures on affidavits, sworn statements or Declarations.
14. Servicer shall maintain records that identify all notarizations of Servicer documents executed by each notary employed by Servicer.
15. Servicer shall not file a POC in a bankruptcy proceeding which, when filed, contained materially inaccurate information. In cases in which such a POC may have been filed, Servicer shall not rely on such POC and shall (a) in active cases, at Servicer's expense, take appropriate action, consistent with state and federal law and court procedure, to substitute such POC with an amended POC as promptly as reasonably practicable (and, in any event, not more than 30 days) after acquiring actual knowledge of such material inaccuracy and provide appropriate written notice to the borrower or borrower's counsel; and (b) in other cases, at Servicer's expense, take appropriate action after acquiring actual knowledge of such material inaccuracy.
16. Servicer shall not rely on an affidavit of indebtedness or similar affidavit, sworn statement or Declaration filed in a pending pre-judgment judicial foreclosure or bankruptcy proceeding which (a) was required to be based on the affiant's review and personal knowledge of its accuracy but was not, (b) was not, when so required, properly notarized, or (c) contained materially inaccurate information in order to obtain a judgment of foreclosure, order of sale, relief from the automatic stay or other relief in bankruptcy. In pending cases in which such affidavits, sworn statements or Declarations may have been filed, Servicer shall, at Servicer's expense, take appropriate action, consistent with state and federal law and court procedure, to substitute such affidavits with new affidavits and provide appropriate written notice to the borrower or borrower's counsel.

17. In pending post-judgment, pre-sale cases in judicial foreclosure proceedings in which an affidavit or sworn statement was filed which was required to be based on the affiant's review and personal knowledge of its accuracy but may not have been, or that may not have, when so required, been properly notarized, and such affidavit or sworn statement has not been re-filed, Servicer, unless prohibited by state or local law or court rule, will provide written notice to borrower at borrower's address of record or borrower's counsel prior to proceeding with a foreclosure sale or eviction proceeding.
  18. In all states, Servicer shall send borrowers a statement setting forth facts supporting Servicer's or holder's right to foreclose and containing the information required in paragraphs I.B.6 (items available upon borrower request), I.B.10 (account statement), I.C.2 and I.C.3 (ownership statement), and IV.B.13 (loss mitigation statement) herein. Servicer shall send this statement to the borrower in one or more communications no later than 14 days prior to referral to foreclosure attorney or foreclosure trustee. Servicer shall provide the Monitoring Committee with copies of proposed form statements for review before implementation.
- B. Requirements for Accuracy and Verification of Borrower's Account Information.
1. Servicer shall maintain procedures to ensure accuracy and timely updating of borrower's account information, including posting of payments and imposition of fees. Servicer shall also maintain adequate documentation of borrower account information, which may be in either electronic or paper format.
  2. For any loan on which interest is calculated based on a daily accrual or daily interest method and as to which any obligor is not a debtor in a bankruptcy proceeding without reaffirmation, Servicer shall promptly accept and apply all borrower payments, including cure payments (where authorized by law or contract), trial modification payments, as well as non-conforming payments, unless such application conflicts with contract provisions or prevailing law. Servicer shall ensure that properly identified payments shall be posted no more than two business days after receipt at the address specified by Servicer and credited as of the date received to borrower's account. Each monthly payment shall be applied in the order specified in the loan documents.
  3. For any loan on which interest is not calculated based on a daily accrual or daily interest method and as to which any obligor is not a debtor in a bankruptcy proceeding without reaffirmation, Servicer shall promptly accept and apply all borrower conforming

payments, including cure payments (where authorized by law or contract), unless such application conflicts with contract provisions or prevailing law. Servicer shall continue to accept trial modification payments consistent with existing payment application practices. Servicer shall ensure that properly identified payments shall be posted no more than two business days after receipt at the address specified by Servicer. Each monthly payment shall be applied in the order specified in the loan documents.

- a. Servicer shall accept and apply at least two non-conforming payments from the borrower, in accordance with this subparagraph, when the payment, whether on its own or when combined with a payment made by another source, comes within \$50.00 of the scheduled payment, including principal and interest and, where applicable, taxes and insurance.
  - b. Except for payments described in paragraph I.B.3.a, Servicer may post partial payments to a suspense or unapplied funds account, provided that Servicer (1) discloses to the borrower the existence of and any activity in the suspense or unapplied funds account; (2) credits the borrower's account with a full payment as of the date that the funds in the suspense or unapplied funds account are sufficient to cover such full payment; and (3) applies payments as required by the terms of the loan documents. Servicer shall not take funds from suspense or unapplied funds accounts to pay fees until all unpaid contractual interest, principal, and escrow amounts are paid and brought current or other final disposition of the loan.
4. Notwithstanding the provisions above, Servicer shall not be required to accept payments which are insufficient to pay the full balance due after the borrower has been provided written notice that the contract has been declared in default and the remaining payments due under the contract have been accelerated.
  5. Servicer shall provide to borrowers (other than borrowers in bankruptcy or borrowers who have been referred to or are going through foreclosure) adequate information on monthly billing or other account statements to show in clear and conspicuous language:
    - a. total amount due;
    - b. allocation of payments, including a notation if any payment has been posted to a "suspense or unapplied funds account";



- c. unpaid principal;
- d. fees and charges for the relevant time period;
- e. current escrow balance; and
- f. reasons for any payment changes, including an interest rate or escrow account adjustment, no later than 21 days before the new amount is due (except in the case of loans as to which interest accrues daily or the rate changes more frequently than once every 30 days);

Statements as described above are not required to be delivered with respect to any fixed rate residential mortgage loan as to which the borrower is provided a coupon book.

- 6. In the statements described in paragraphs I.A.18 and III.B.1.a, Servicer shall notify borrowers that they may receive, upon written request:
  - a. A copy of the borrower's payment history since the borrower was last less than 60 days past due;
  - b. A copy of the borrower's note;
  - c. If Servicer has commenced foreclosure or filed a POC, copies of any assignments of mortgage or deed of trust required to demonstrate the right to foreclose on the borrower's note under applicable state law; and
  - d. The name of the investor that holds the borrower's loan.
- 7. Servicer shall adopt enhanced billing dispute procedures, including for disputes regarding fees. These procedures will include:
  - a. Establishing readily available methods for customers to lodge complaints and pose questions, such as by providing toll-free numbers and accepting disputes by email;
  - b. Assessing and ensuring adequate and competent staff to answer and respond to consumer disputes promptly;
  - c. Establishing a process for dispute escalation;
  - d. Tracking the resolution of complaints; and
  - e. Providing a toll-free number on monthly billing statements.
- 8. Servicer shall take appropriate action to promptly remediate any inaccuracies in borrowers' account information, including:
  - a. Correcting the account information;
  - b. Providing cash refunds or account credits; and
  - c. Correcting inaccurate reports to consumer credit reporting